

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

LEONARD BLASZCZYK,

Plaintiff,

v.

STEVE LADREMAN,

Defendant.

ORDER

11-cv-499-wmc

In an order dated June 5, 2013, the court dismissed plaintiff Leonard Blaszczyk's 42 U.S.C. § 1983 complaint seeking money damages and release from prison, but without prejudice to his raising his claim of illegal confinement in a petition for writ of habeas corpus once he has exhausted his state court remedies. Now before the court is a document filed by Blaszczyk that is difficult to understand, since it appears to be seeking reconsideration of the June 5 order on the basis that this court can entertain a § 1983 action from a prisoner seeking release from prison. Since Blaszczyk remains incorrect on the law, his motion will be denied.

To prevail in a civil rights action stemming from a prisoner's "unconstitutional conviction or imprisonment, or for other harm caused by actions whose unlawfulness would render a conviction or sentence invalid," the plaintiff must prove "that the conviction or sentence has been reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such determinations, or called into question by a federal court's issuance of a writ of habeas corpus [under] 28 U.S.C. § 2254." *Heck v. Humphrey*, 512 U.S. 477, 486-87 (1994). A claim that bears a relationship to a conviction or sentence that has not been so invalidated is not cognizable under 42 U.S.C. § 1983. *Id.*

As the court stated in its June 5 order, Blaszczyk may only challenge his conviction in this court by filing a petition for writ of habeas corpus, and the court can only entertain such an action after Blaszczyk exhausts all state court remedies available to him as required by 28 U.S.C. § 2254.

ORDER

IT IS ORDERED that plaintiff Leonard Blaszczyk's motion for reconsideration of the court's June 5, 2013 order in this case (dkt. #23) is DENIED.

Entered this 15th day of October, 2013.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge